

PATENT
Customer No. 22,852
Attorney Docket No. 08702.0039-02000

REMARKS

Claims 24, 26, 30, 33, 35, 36, 38, 39, 41, and 42 are pending in the application. Claims 33, 36, 39, and 42 are rejected, and claims 24, 26, 30, 35, 38, and 41 are deemed allowable.

In this communication, the Examiner enters the amendment filed on November 16, 2005 with a request for continued examination of this application, but objects to the amendment under 35 U.S.C. 132(a), alleging that it introduces new matter. The Examiner also rejects claims 33, 36, 39, and 42 on anticipation, written description, definiteness, an non-obviousness-type double patenting grounds.

In response, Applicants amend the paragraph beginning at page 7, line 35, to remove the subject matter that is objected to under 35 U.S.C. 132(a), as requested by the Examiner. Applicants do not accede to the new matter objection, instead canceling the subject matter solely to expedite allowance of this application. Applicants also cancel claims 33, 36, and 39 without acceding to the grounds of rejection of these claims. Applicants expressly reserve the right to pursue the cancelled subject matter in this or a continuing application.

With this amendment, Applicants also amend claim 35 to correct a typographical error and amend claim 41 to clarify the reference to ATCC deposit 40345. Further, Applicants amend claim 42 to depend from claim 24. As claim 24 is allowable, applicants believe that this amendment renders claim 42 allowable. The amendment of claim 41 is supported, for example, in the specification at page 23, line 33 to page 24,

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line 1, and in the specification of priority application No. 07/179,100 at page 21, lines 28-31.

Additionally, Applicants add new claims 50-54, which depend from or otherwise include all of the limitations of an allowable claim. Applicants note that new claim 50 depends from claim 24, and that new claims 51-54 relate to the non-elected subject matter of the claims of Group III, as defined in the Office Action dated November 3, 2003. No new matter is added by this amendment. As Applicants believe that claims 24, 26, 30, 35, 38, 41, and 42 are now in condition for allowance, Applicants respectfully ask the Examiner to determine whether the subject matter of claims 50-54 is available for rejoinder. See MPEP 821.04(a). If the Examiner does not consider all claims to be in condition for allowance, we respectfully ask the Examiner to contact the undersigned at 617.452.1693.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: May 8, 2006

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